



Office of the Attorney General
State of Texas

August 24, 1998

DAN MORALES
ATTORNEY GENERAL

Mr. John Steiner
Division Chief
City of Austin
Law Department
P.O. Box 1088
Austin, Texas 78767-1088

OR98-2013

Dear Mr. Steiner:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 117617.

The City of Austin received a request to inspect all documents related to and produced or used during the May 27, 1998 hearing on CIMC-TianDa's bid protest. You state that you have provided the requestor with some of the requested material. You have submitted several pages of CIMC-TianDa's bid proposal to this office for review because CIMC-TianDa has asked that you withhold these documents from disclosure as proprietary information. On behalf of CIMC-TianDa, you claim that the submitted documents are excepted from disclosure under sections 552.101 and 552.110 of the Government Code.

Since CIMC-TianDa's proprietary interests may be implicated by the release of the submitted documents, this office notified CIMC-TianDa about the request for information. See Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining that statutory predecessor to Government Code section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in Open Records Act in certain circumstances). This office did not receive a response from CIMC-TianDa.

Because CIMC-TianDa did not respond to our notice, we have no basis to conclude that the submitted documents are excepted from disclosure. See Open Records Decision Nos. 639 (1996) at 4 (to prevent disclosure of commercial or financial information, party must show by specific factual or evidentiary material, not conclusory or generalized allegations, that it actually faces competition and that substantial competitive injury would

likely result from disclosure), 552 (1990) at 5 (party must establish prima facie case that information is trade secret), 542 (1990) at 3. The submitted documents must, therefore, be released to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, reading "Karen Hattaway". The signature is fluid and cursive, with the first name "Karen" and last name "Hattaway" clearly distinguishable.

Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/mjc

Ref: ID# 117617

Enclosures: Submitted documents

cc: Mr. Dowe D. Gullatt
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(w/o enclosures)